

SERBIA

BRIEFING FOR THE HUMAN RIGHTS COUNCIL UNIVERSAL PERIODIC REVIEW – 15th session, 2013

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Global Initiative to
**End All Corporal Punishment
of Children**

Corporal punishment of children breaches their rights to respect for human dignity and physical integrity and to equal protection under the law. It is recognised by the Committee on the Rights of the Child and other treaty bodies, as well as by the UN Secretary General’s Study on Violence against Children, as a highly significant issue, both for asserting children’s status as rights holders and for the prevention of all forms of violence.

In June 2006, the Committee on the Rights of the Child adopted General Comment No. 8 on “The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment”, which emphasises the immediate obligation on states parties to prohibit all corporal punishment of children, including within the home. Other treaty bodies and also regional human rights mechanisms have condemned all corporal punishment. In October 2006, the report of the UN Secretary General’s Study on Violence against Children was submitted to the General Assembly. It recommends universal prohibition of all corporal punishment as a matter of priority.

The Global Initiative to End All Corporal Punishment of Children has regularly briefed the Committee on the Rights of the Child on this issue since 2002, since 2004 has similarly briefed the Committee Against Torture, the Committee on the Elimination of Discrimination Against Women, the Committee on Economic, Social and Cultural Rights and the Human Rights Committee, and in 2011 began briefing the Committee on the Rights of Persons with Disabilities. There is growing progress across all regions in challenging this common form of violence against children. But many States persist in ignoring treaty body recommendations to prohibit and eliminate all corporal punishment. We hope the Working Group of the UPR will give particular attention to states’ response, or lack of response, to the concluding observations from treaty bodies on this issue, as well as to the recommendations made during the first cycle of the UPR.

Corporal punishment of children is lawful in Serbia, despite recommendations to prohibit it by international treaty monitoring bodies.

We hope the Working Group will note with concern the legality of corporal punishment in Serbia as well as current efforts to draft prohibiting legislation. We hope states will raise the issue during the review in 2013 and recommend to Serbia that legislation is enacted to explicitly prohibit corporal punishment of children in all settings including the home as a matter of priority.

1 The initial review of Serbia by the Working Group on the Universal Periodic Review (2008)

1.1 Serbia was reviewed in the first cycle of the Universal Periodic Review in 2008 (session 3). The issue of corporal punishment of children was included in the compilation of UN information¹ and the summary of stakeholders' information,² and the following recommendation was made:

“To prohibit corporal punishment, including in the family, in line with the recent recommendation of the Committee on the Rights of the Child (Austria)”³

1.2 The Government accepted the recommendation, stating that it was “undertaking activities toward changing the Family Law by introducing norms that clearly prohibit corporal punishment and protect children from all forms of physical punishment, including physical punishment in the family environment”.⁴

1.3 The Government stated its commitment to prohibition in 2007. In 2008, the Ministry of Social Policy and the Council for Child Rights adopted a National Strategy for the Prevention and Protection of Children Against Violence which included the aim of abolishing corporal punishment of children; the Action Plan for the implementation of the Strategy was adopted in June 2010. In 2011, a Working Party developed a Draft Law on the Rights of the Child which includes provisions to prohibit all corporal punishment.

1.4 To our knowledge, the draft law is still being discussed. However, in the mean time there has been no change in the legality of corporal punishment of children since Serbia's review in 2008: children may lawfully be physically punished in the home and in alternative forms of care (see below).

2 Legality of corporal punishment in Serbia

2.1 Corporal punishment is lawful in the **home**. Provisions against violence and abuse in the Criminal Code (2005), the Misdemeanours Act (2007) and the Constitution (2006) are not interpreted as prohibiting all corporal punishment in childrearing. The Serbian Family Law (2005) states in article 72(2) that parents “may not subject the child to humiliating actions and punishments which insult the child's human dignity and have the duty to protect the child from such actions taken by other persons”, but there is no explicit prohibition of all corporal punishment. UNICEF's major 2010 analysis of child disciplinary practices found that in Serbia 75% of 2-14 year olds had experienced violent discipline (physical punishment and/or psychological aggression) in 2005-2006.⁵

2.2 Corporal punishment was first explicitly prohibited in **schools** in article 67 of the Law on Public Schools (Yugoslavia, 1929). It is now unlawful under the Law on Secondary Schools (1992), the Law on Elementary Schools (1992) and the Law on the Bases of the System of

¹ 3 October 2008, A/HRC/WG.6/3/SRB/2, Compilation of UN information, para. 14

² 25 September 2008, A/HRC/WG.6/3/SRB/3, Summary of stakeholders' information, para. 14

³ 8 January 2009, A/HRC/10/78, Report of the Working Group, para. 57(11)

⁴ 18 March 2009, A/HRC/10/78/Add.1, Report of the Working Group: Addendum, paras. 20 and 21

⁵ UNICEF (2010), *Child Disciplinary Practices at Home: Evidence from a Range of Low- and Middle-Income Countries*, NY: UNICEF

Education and Upbringing (2003, 2009). However, numerous studies have shown that children continue to experience corporal punishment at school.⁶

2.3 In the **penal system**, corporal punishment is not a permitted sentence for crime under the Criminal Code or the Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles (2005). It is also unlawful as a disciplinary measure in penal institutions, not among permitted disciplinary measures against juveniles in detention in the Law on Enforcement of Penal Sanctions and the Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles.

2.4 With regard to **alternative care settings**, corporal punishment is prohibited in day care which forms part of the education system under education law (see above), including nurseries, kindergartens, preschools, after school care, workshops and additional education activities. But it is lawful in other forms of care.

3 Recommendations by human rights treaty monitoring bodies

3.1 In 2008, the **Committee on the Rights of the Child** expressed concern at the widespread infliction of corporal punishment on children and recommended its prohibition in the family and other settings.⁷

3.2 In 2009, the **Committee Against Torture** recommended that Serbia adopt and implement legislation prohibiting corporal punishment in all settings as well as necessary awareness raising and educational campaigns.⁸

Briefing prepared by the Global Initiative to End All Corporal Punishment of Children
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⁶ Djordjević, B. & Djordjević, J. (1988), *Učenici o svojstvima nastavnika*, Beograd: Prosveta; Gašić-Pavišić, S. (1998), "Nasilje u školi. U M. Milosavljević, M. (ur.), *Nasilje nad decom*, Beograd: Fakultet političkih nauka, Univerzitet u Beogradu; Plut, D. & Popadić, D. (2006), *Škola bez nasilja- ka sigurnom i podsticajnom okruženju za decu*, UNICEF, Institut za psihologiju Filozofskog fakulteta

⁷ 20 June 2008, CRC/C/SRB/CO/1, Concluding observations on initial report, paras. 46 and 47

⁸ 19 January 2009, CAT/C/SRB/CO/1, Concluding observations on initial report, para. 20